

June 12, 2000

Ms. Patricia Gorman
Deputy Director
Conference of Radiation Control
Program Directors, Inc.
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. Gorman:

We have reviewed the final Part P to the Suggested State Regulations for Control of Radiation (SSRCR), Contingency Planning for Response to Radioactive Material Emergencies, adopted by the Board January 12, 2000, enclosed in your January 13, 2000 letter. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Sections 30.4, 30.32(i), 30.72 Schedule C, and 40.31(j). For Appendix A, Part P, we only conducted a spot check in comparison to 30.72 Schedule C. In addition, we reviewed our January 13, 2000 letter to you that addressed the proposed regulations. We also discussed our review of the regulations with Ken Weaver, State of Colorado, on March 30, 2000 and May 8, 2000.

As a result of the NRC review we have identified 10 comments, as enclosed. Two comments with a category "A" designation must be addressed to meet the compatibility and health and safety categories established in Office of State and Tribal Programs (STP) Procedure SA-200. Seven comments are suggested changes.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in this review, please contact me or Dr. Stephen N. Salomon of my staff at (301) 415-2368 or SNS@NRC.GOV.

Sincerely,

/RA/

Paul H. Lohaus, Director
Office of State and Tribal Programs

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As stated

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**COMMENTS ON FINAL CRCPD REGULATIONS-PART P
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

Part P Regulation	NRC Regulation	Category	Subject and Comments
Sec. P.3- Definitions alert	10 CFR 30.4 Definitions alert	A	<p>Definition of “alert”</p> <p>The Part P definition is sufficiently different from §30.4 that it may cause confusion. The differences are the additional information provided (type of on-site and off-site response and “unless the situation becomes more serious”). This information may best be provided in guidance. In addition, the contingency plan is designed for “releases of material” (P.4.b) and not “degradation of the level of safety of the facility and requires response.”</p> <p>To meet the compatibility category “A”, the Part P definition should be essentially identical to the one in §30.4.</p>
Sec. P.3- Definitions General Emergency	Not defined	No category	<p>Definition of “General Emergency”</p> <p>The proposed SSR contains a "General Emergency" classification. The Statements of Consideration for the NRC emergency plan rule (54 FR 14054, April 7, 1989) states:</p> <p>"For nuclear power plants, a general emergency means there is a possibility of very large releases that could cause acute radiation effects miles from the plant. Neither releases nor doses of those magnitudes could result from accidents at fuel cycle or other radioactive materials facilities. Therefore, the general emergency class is not used for these facilities."</p> <p>This position is based on the accident analysis in NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees."</p> <p>Based on this guidance, we suggest the “General Emergency” classification should be deleted.</p>

<p>Sec. P.3- site area emergency</p>	<p>10 CFR 30.4 site area emergency</p>	<p>A</p>	<p>Definition of “site area emergency”</p> <p>This definition is sufficiently different from §30.4 that it does not meet the compatibility category “A”. The NRC definition sets the threshold for site area emergencies at events that <u>could</u> lead to a significant release <i>and could</i> require a response by offsite response organizations to protect persons off-site. The Part P definition does not mention release, only “major failures of facility functions needed for the protection of the public.” The contingency plan is designed for “releases of material” (P.4.b) and not “major failures of facility functions needed for the protection of the public.” The Part P definition also states that a site area emergency <u>will require</u> contact with off-site response organizations to protect persons off-site. The use of “will require” is a higher threshold than the NRC’s “could require” with the result that a site area emergency is declared sooner under NRC regulations.</p> <p>To meet the compatibility category “A”, the Part P definition should be essentially identical to the one in §30.4</p>
<p>Sec. P.3 incident</p>	<p>Not defined</p>	<p>No category</p>	<p>Definition of “incident”</p> <p>Use of the term “incident” has the potential to cause confusion on the part of licensees. Incident is used only twice in Part P, P.2.b and P.6.e. According to the Rationale for Revisions, “incident” is not used at this time in any regulatory requirement of Part P. “Incident” is not used in NRC regulations. Although NRC does not specifically define accident, it does list classifications of accidents as being alerts or site area emergencies [§30.32h(3)(iii)]. In addition, Section P.4.b states that the contingency plan is for “responding to any accident.” The way in which Part P defines accident, it appears that it is limited to events that meet the criteria for alerts or site area emergencies, i.e., levels higher than incidents.</p> <p>In order to avoid confusion, we suggest deleting all references to incidents from Part P.</p>

Sec. P.6	§30.32(i)(3)	D/H&S	<p>Contents of a Contingency Plan</p> <p>The opening sentence in Sec. P.6 does not parallel the language in Section P.4.b., i.e., “responding to a release of material” and “accident in which radioactive material could be released from the site.”</p> <p>We suggest that these should be consistent to avoid confusion.</p>
Sec. P.6.k.v	§30.32(i)(3)(xii)	D/H&S	<p>Drills and exercises</p> <p>Provision P.6.k.v. states that accident scenarios be known to participants as prescribed in the contingency plan. §30.32(i)(3)(xii) specifically stipulates that the scenario not be known by most of the participants.</p> <p>We suggest that you consider that this provision be consistent with NRC regulations to improve the quality of the drill or exercise.</p>

<p>Sec. P.11.b</p>	<p>§30.32(i)(3)(viii)</p>	<p>D/H&S</p>	<p>Plan implementation</p> <p>Provision P.11.b. requires notification of offsite organizations including the Agency immediately after declaring an <u>alert, site area emergency, or general area emergency</u>. Part P defines immediate as within 15 minutes or as otherwise specified in writing by the licensee. The NRC regulation requires notification of NRC immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an <u>emergency</u>. The Part P requirement is not as restrictive as the NRC's, i.e., the licensee under part P has to declare an alert, site area emergency, or general emergency prior to notifying, whereas the NRC licensee has to notify after declaring an emergency [§30.32(i)(3)(viii)]. 10 CFR 72.32 contains the notification requirements for ISFSIs, which is part of CRCPD's basis for making the notification within 15 minutes. The requirement in §72.32 is the same as in §30.32(i)(3)(viii), within one hour after the licensee declares an emergency. The sole basis for the 15 minute notification is a public comment on the proposed Part 72 (59 FR 64283). We do not believe that the comment has an adequate basis.</p> <p>We suggest that you consider that Sec. P.11 be modified to require the licensee to make an immediate notification of the agency after the offsite organizations, and both notifications not later than one hour following declaration of an emergency.</p> <p>Also, we note that "general area emergency" is not defined whereas "general emergency" is defined.</p> <p>We suggest that "general emergency" be deleted as discussed above.</p>
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Title	<p>Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees (53 FR 43419)</p> <p>Note: Fuel Cycle is not applicable to Agreement States</p>	No category	<p>Contingency Planning for Response to Radioactive Emergencies</p> <p>There is no explanation in the Rationale for Revisions for using the term “Contingency Plan” instead of “Emergency Plan.” In §30.72, the term “Emergency Plan” is used instead of “Contingency Plan.”</p> <p>We suggest that you use “Emergency Plan” because there may be unnecessary confusion introduced by using the term, “Contingency,” instead of “Emergency.”</p>
Rationale			<p>Rationale</p> <p>A reading of the Rationale gives the impression that Part P is intended to provide some continuity between the materials and reactor emergency preparedness.</p> <p>If this is the intent, we believe that there should be further clarification on this matter.</p>
Rationale Section P.5g	No title	No category	<p>The rationale for not including the corresponding NRC provision [10 CFR 30.32g(2)(vii)] is that it is “probably” included under P.5.e.</p> <p>We recommend that you consider a more definitive reason for the exclusion, or include the provision.</p>